UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

EXAMINER
LUONG, ALAN H

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _08 October 2009_.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,2,5-7 and 9-11_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,2,5-7 and 9-11_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

This action is examined by new examiner

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October

08, 2009, has been entered.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims **1-2, 5-6 and 9-10** are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Hite** et al. (US Patent No. 5774170); (herein after **Hite'170**); in view

of **Hite** et al. (US Patent No. 5805974) (herein after **Hite's 974**).

Claim 1: (Currently amended) Fig. 1 of Hite illustrates a system supports **a process for**

allowing a viewer at a TV display [400] **to bypass undesired segments of a TV**

program, (Commercials which are subject to preemption are imbedded in programs along with a version of the CID) (**Hite'170, col. 3 lines 61-64**) including

Hite teaches **on a shared personal video recorder (PVR) network server at a distribution head end (i.e.** An Ad Transmission Facility 200 of FIG. 1 which receives Programming, Commercial, and Consumer information along with appropriate CID codes from the Ad Administration Facility 100 of FIG. 1; which includes a Programming Database 152 for **storing one or more TV programs (Hite'170, col. 7 lines 52-63; col. 8 line 64-col. 9 line 15 and col. 11 lines 13-45**); Fig. 2 of Hite shows a commercial processor [106] processed the playback commercial from playback device [102] combining with Preemptable Commercial CID from Preemptable Commercial CID Code Generator 120 to store in the Preemptable Commercial CID Data List Storage Device 124 **(a first class of metadata)**; Commercials which are subject to preemption are imbedded in programs **(a start location and a stop location)** along with a version of the CID to indicate under what circumstances a more suitable commercial may be substituted **(undesired segments) (Hite'170, col. 3 lines 61- 64, col. 6 lines 48- 51, col. 10 line 33-44**) meets the limitation of "**one or more TV programs containing a first class of metadata including a start location and a stop location of potentially undesired segments**";

Referring to Fig. 5, Remote control [446] emits infra red remote control signals, radio frequency signals, or other suitable signals to the Display Processor 444 which interprets and acts upon their commands to a Commercial Processor 438 wherein cause commercial signals to be stored or played back from the Optional Video Storage

Device 456 for **retrieving one of the TV programs for display** at [450]; (**Hite'170, col. 14 lines 11- 58)**

Hite further teaches to target prospective viewers of a set of advertisements using database search; CID codes are transmitted to the viewing device and stored. A Commercial Processor (CP) is programmed to find and analyze the CID codes in each commercial **for defining** a match between the third CID in the commercial (Conditionally Preemptable CID) and the CID transmitted and stored at the point of use is found **, with a second class of metadata,** When the CIDs do not match, the unmatched CID commercial **(unwanted segments specific to a user of said TV display)** is ignored and not displayed, (**Hite'170, col. 3 line 65- col. 4 line 18; col. 6 lines 40- 58)** meets the limitation of claim **"matching the first class of metadata with the second class of metadata"**

Furthermore, Hite teaches a context blocking code is CID code used to prevent the display of a commercial during certain kinds of programming **(removing), responsive to matching the first class of metadata with the second class of metadata, undesired segments from the TV program**; (i.e. a travel commercial would not be used during a drama involving an airplane crash or other travel tragedy**) (Hite'170, col. 4 lines 41- 44)** and

However, Hite'170 fails to disclose "reimbursing source content suppliers for a financial loss occasioned by removed material, wherein the source content suppliers are distinct from an operator of the distribution head end".

In an analogous art directed toward a similar problem namely improving the results from reimbursing source content suppliers for a financial loss occasioned by removed material,

FIG. 3 of Hite'974 shows **source content suppliers** (i.e. the satellite uplink/Production Facility of FIG. 2 receives from the satellites 100, 180, and 182 in a Direct Broadcast Service with the addition of an optional single-hop satellite link for delivery of commercials with precise timing)(**Hite'974, col. 8 lines 17-20**). Fig. 2b of Hite illustrates multiple Head End Facilities 262, and 296; has multiple Programmers 184, 186,188 (**an operator of the distribution head end**). At the Head End, some signals from the Satellite Receivers 268 are conveyed by connections 286 to a Switcher 276 may also convey the signals by connection 278 to a **Program Playback device** 280 for recording and later playback through the Switcher 276 or via connection 282 to a **Commercial Playback device** 284 for recording and later playback through the Switcher 276. (**Hite's 974, col. 7 line 28-col. 8 line 16**) meets the scope of claim **wherein the source content suppliers are distinct from an operator of the distribution head end.**

Additionally, Hite' 974 also teaches Statistical data on network viewership is also accumulated. The total number of viewers covered by properly synchronized commercials is tallied and compared with the viewership rates for the broadcast networks . If the total number of viewers of a synchronized commercial is equivalent to that of the top rated broadcast network, the Cost per Thousand (CPM) rate (**col. 1 lines 16-24**); the CPM used for that broadcast network applies to each complying cable network. The complying network is rewarded with that higher CPM applied to its

viewership numbers. Any network which fails to synchronize gets the normal cable CPM

for a stand-alone commercial, If the total number of viewers of a synchronized

commercial fails to meet some minimum number, the normal cable CPM rates apply to

all participants. This is the compensation and incentive plan can be structured from a

business perspective. (Hite' 974, **col. 3 lines 45-col. 4 line 19**) meets the scope of

claim "**reimbursing source content suppliers for a financial loss occasioned by**

removed material wherein the source content suppliers are distinct from an

operator of the distribution head end".

Therefore, it would have been obvious to one with ordinary skill in the art at the time of

the invention was made to modify a process for allowing a viewer to remove

undesired segments of a TV program of Hite' 170 with the compensation and incentive

plan as taught by Hite' 974, to increase the effectiveness of the advertising on cable and

similar multichannel media and raise the revenue potential of the advertising spots for

the programmer and cable operator. (Hite' 974, **col. 1 lines 25-28**)

claim 2: (Previously presented) The process as set forth in claim 1, Hite's 170 teaches

Preemption commercial in the broadcast signal when CID code matched with the stored

CID as discussed in claim 1, commercial substitution left time space in the broadcast

signal **resulting from removing the undesired segments from the TV program'**.

In an analogous art directed toward a similar problem namely improving the results from

time shifting two or more programs to fill time space. Fig. 2 of Hite'974 further teach

"a Timing Signal Receiver 206 receives the common timing source signal 200 via

connection 202 which involved satellite distribution and some satellite uplink/Production

Facility system sites received the signal via one satellite link while others required two

or more links, the transmission delays to the various sites would be sufficiently different

to upset the synchronization and viewers would be disturbed by the differences from

channel to channel. A control console 136 will receive the timing signal via connection

208 from the Timing Signal Receiver 206. The Time Compressor/Expander 212 is

coupled to the Control Console 136 by connection 222, the Time Compressor/Expander

212 can be used to process the signals from the **Program** Playback Device 128 by

coupling it to the **Program** Playback Device 128 with connection 210 and coupling it to

the Switcher 122 with connection 214. A Time Compressor/Expander 218 is coupled to

the Control Console 136 by connection 224. The Time Compressor/Expander 218 can

be used to process the signals from the **Commercial** Playback Device 132 by coupling

it to the **Commercial** Playback Device 132 with connection 216 and coupling it to the

Switcher 122 with connection 220.. The optional Time Compressor/Expanders 212 and

218 take signals previously loaded into them and play them back at appropriate speeds

to precisely fit a time constraint **(time shifting)**" **(Hite's 974, col. 6 line 37-col. 7 line**

27) meets the scope of **"including time shifting two or more programs"** combining

with Hite's 170 **"to fill time space resulting from removing the undesired segments**

from the TV program".

claim 5 (Currently amended) Fig. 2 of Hite's 170 illustrates **an apparatus for removing**

unwanted TV material merely repeats the same limitation of claim 1. Claim 5 is

rejected for the same reason as discussed in claim 1. Here in:

a shared personal video recorder (PVR) network server [152] **at a distribution system head end** [100] **, said PVR network server for storing multiple TV programs with one or more TV programs containing TV metadata defining unwanted program segments of the TV programs (i.e.** Preemptable CID codes**)**

Additionally, Hite's 170 explicitly teaches **a processor** (A Commercial Processor (CP) [438] of Fig. 5) **and logic coupled to the shared personal video recorder network server adapted to compare the TV metadata with the stored metadata** (i.e. an algorithm transmitted to the Receiver Device prior to the CID transmission to look for and analyze the CID in each incoming commercial) and **to remove undesired program segments from a specific program to prepare the specific program for delivery to a specific TV display;** (i.e. the CID in each incoming commercial is compared to the CIDs previously received and recorded by the RD. If there is a match between the CID in the commercial and the CID in the RD, the commercial is displayed. When the CIDs do not match, the commercial is ignored and not displayed) **(Hite's 170, col. 6 lines 9-59)** and

Hite's 974 modifies the missing part of Hite's 170 in teaching "**further logic adapted to cause reimbursement of a source content supplier, the source content supplier distinct from the operator of the distribution system head end, for financial loss from removal of the undesired program segments from the specific program**"(see discussion in claim 1).

claim 6: (Previously presented) The apparatus as set forth in claim 5, wherein the logic to remove undesired program segments merely repeats the same limitation of claim 2. Claim 6 is rejected for the same reason as discussed in claim 2.

claim 9: (Currently amended) An apparatus for removing unwanted TV material merely repeats the same limitations of claim 1

Additionally, Hite's 947 discloses **a processor** [550] **and logic coupled to the shared personal video recorder network server adapted to receive user instructions on demand** (i.e. request from user's remote control [584]) **to remove undesired program segments from a specific program** (i.e. TV program channel contains parental control code) **to evaluate the TV metadata of the specific program, and** viewer inputs the code matching with the recorded code in the program of parental control channel **to remove the undesired program segments from the specific program; (Hite's 947, col. 11 line 49- col. 12 line 3).**

claim 10. (Previously presented) The apparatus as set forth in claim 9, merely repeats the same limitation of claim 2. Claim 10 is rejected for the same reason as discussed in claim 2.

4.   Claims **7 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hite** et al. (US Patent No. 5774170); (herein after **Hite'170**); in view of **Hite** et al. (US Patent No. 5805974) (herein after **Hite's 974**); further in view of **Logan** et. al. (US Pub. No. 2003/0093790)

claim 7: (Previously presented) The apparatus as set forth in claim 5,

However, Hite'170 and Hite's 974 fail to teach *"adapted to record and report viewer decisions to automatically remove undesired program segments"*.

In an analogous art directed toward a similar problem namely improving the results from *adapted to record and report viewer decisions to automatically remove undesired program segments.* Logan discloses the user's prior selection history; (Logan, ¶0294-¶0295) and using metadata to trim the unwanted portions after a recording; the system automatically `trim` certain pieces of a recording based on a user's viewing history and personal preferences. (Logan, ¶0421) meets the limitation of "**adapted to record and report viewer decisions to automatically remove undesired program segments**". Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to modify a process for allowing a viewer to remove undesired segments of a TV program of Hite' 170 and Hite' 974 with automatically `trimming process based on a user's viewing history and personal preferences as taught by Logan; in order to allow viewers to control this form of entertainment on their own terms; i.e. allow viewers to capture content for future playback, record selected future programs. (Logan, ¶0005)

claim 11. (Previously presented) The apparatus as set forth in claim 9, merely repeats the same limitation of claim 7. Claim 11 is rejected for the same reason as discussed in claim 7.

Response to Arguments

5.   Applicant's arguments with respect to claims 1-9-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALAN LUONG whose telephone number is (571)270-5091. The examiner can normally be reached on Mon.-Thurs., 8:00am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALAN LUONG/
Examiner, Art Unit 2427

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427